

## **MINUTES OF THE PLANNING COMMISSION OCTOBER 11, 2006**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, October 11, 2006 at 7:00 P.M.

### **ROLL CALL**

Bourgeois, John

Kane, D. Michael

Micciche, Phil

Quintana, Lee

Rice, Stephen

Talesfore, Joanne

**Absent:** O'Donnell, Tom

### **CONTINUED PUBLIC HEARING**

3. 551 Santa Rosa Drive – Architecture and Site Application S-06-032 -  
Requesting approval to add onto a single family residence that will exceed the allowable FAR on property zoned HR-2 ½. APN 527-56-034  
PROPERTY OWNER: Kevin and Susanne Hereford APPLICANT: Terry Martin Associates (Continued from August 9 and September 27, 2006)

**Motion by Commissioner Bourgeois and seconded by Commissioner Kane,** to continue to October 25, 2006.

Motion passed 6-0 with **Commissioner O'Donnell excused.**

**APPROVAL OF MINUTES** – None

### **VERBAL COMMUNICATION**

- **Ray Davis** – indicated he will be running for the Planning Commission. Also commented on the Town Code as it relates to the proposed DeSantis hillside project and the vote by Commissioners Rice and Micciche to approve this project and forward on to council with this recommendation.

### **SUB COMMITTEE REPORTS**

**Historic Preservation Committee** – Commissioner Kane commented on the seminar organized by the Department of Interior in Monterey on September 22, 2006 which included a visit to four different restoration projects.

### **CONSENT CALENDAR**

The Town Attorney Orry Korb indicated Item \*1 was pulled from the Consent Calendar for discussion.

- \*1. 41 Miles Avenue - Conditional Use Permit U-07-008 - Requesting approval of a time extension to construct and operate a skate park on property zoned RC. A Mitigated Negative Declaration has previously been made for this proposal. APN 529-05-049. - PROPERTY OWNER/APPLICANT: Town of Los Gatos

**Public Comments:**

- **Karen Deloumi** – expressed support for the skate park and that the committee continues to work on skate park issues.
- **Michael Burke** – concerned about the past decisions made by the Town regarding the skate park, i.e, parking by both residents and for special events, large maintenance trucks for local tree company at Balzer Field and the need to re-evaluate the conditions under which this location is being currently used.
- **Ray Davis** – expressed support for the skate park and commented on park dedication fees from projects like the Sobrato project as a way to help finance this project to keep it moving forward.
- **Rick DiNapoli** – concerned about the loss of parking spaces the project will cause to both the neighborhood and for any downtown special events.

Town Attorney Orry Korb indicated no park dedication fees would have been generated from the Sobrato project since this was not a residential subdivision.

**Planning Commission Comments:**

- **Commissioner Talesfore** – asked for clarification from Mr. Tsuda on the issue of both resident and special event parking at the proposed skatepark site.  
Mr. Tsuda provided comments that the traffic study indicated the lot only fills up for special events held in Town. Conditions have not changed since the study was completed two years ago.

**Motion by Commissioner Talesfore** and seconded by **Commissioner Bourgeois** to approve time extension for Conditional Use Permit U-07-008.

- \*2. 15545 Los Gatos Blvd - Conditional Use Permit U-07-05 – Requesting approval to operate a Yoga studio in conjunction with retail sales on property zoned CH. APN 424-22-030 - PROPERTY OWNER: Barry Swenson - APPLICANT: Yoga Source Partners

**Motion by Commissioner Quintana** to approve Conditional Use Permit U-07-05 and **seconded by Commissioner Talesfore**.

Motion passed unanimously (4-0) with **Commissioner O'Donnell excused** and **Commissioners Bourgeois and Kane recused**.

## **PUBLIC HEARINGS**

4. 35 N. Santa Cruz Avenue – Conditional Use Permit U-07-4 – Requesting approval to operate a restaurant in conjunction with retail sales (Powell's Sweet Shoppe) on property zoned C-2. APN 510-44-032 PROPERTY OWNER: Ritchie Asset Mgmt Co. APPLICANT: Knott Family Restaurant/Neil Knott

**Applicant: Neil Knott** – commented on the first public hearing and stated he was not trying to mislead the Town when he opened his business. He clarified that a CUP is required to hand scoop ice cream versus selling pre-packaged ice cream.

### **Public Comments:**

- **Nicola Janvier** – Went through the Town's process seven years ago for a store just two stores away. Expressed discomfort that Powell's was operating without the consent of the Town. Hurts to have competition so close. They can't offer their customers outside seating due to Town regulations. Also concerned about the trash from nearby shop around her business.
- **Pascal Janvier** – Wants the Planning Commission to enforce the same planning process on Powell's shop that his business went through to get Town approval in 1999. Anyone has a right to open a business, but enforce the same rules for everyone.
- **Larry Arzie** – Spoke against the project since eleven restaurants are located in the general area of this project. Expressed concern about how this business will affect the retail business mix in the downtown area.
- **Michael Burke** – Expressed concern about how Powell's Sweet Shoppe is trying to legalize the current serving of gelato.
- **Ray Davis** – Expressed outrage at the Los Gatos planning process.
- **Neil Knott** – Applicant – rebuttal – Indicated his business has followed all the procedures for the Town.

### **Planning Commission Comments:**

- **Commissioner Rice** – Asked about location of refrigeration and what the building plans reflected.
- **Commissioner Bourgeois** – Asked about outdoor seating at Powell's. Applicant responded there is limited bench seating which is removed every night and didn't know it was illegal.
- **Chair Micciche** – Questioned the percentage of sale of gelato versus sale of other retail products in the store.
- **Commissioner Quintana** – Asked if the business license stipulated that gelato would be sold at this location.

- **Commissioner Kane** – Asked staff if the Town would have approved the original retail establishment if the scooping of ice cream had been stated. Assistant Community Development Director Randy Tsuda indicated this would not have been approved and that the CUP would be required.
- **Commissioner Talesfore** – Questioned applicant's intention to sell gelato from the beginning: was it in the business plan, the application and the building plans. Expressed concern about having five ice cream shops in a row near Powell's.

**Motion by Commissioner Kane** and seconded by **Commissioner Talesfore** to deny Conditional Use Permit U-07-04.

Motion passed unanimously (6-0) with **Commissioner O'Donnell excused**.

Town Attorney Orry Korb cited appeal rights.

5. 104 Heintz Court – Architecture and Site Application S-07-016 – Requesting approval to legalize grading for a landscape/patio area on property zoned HR-1:PD. APN 527-19-053 PROPERTY OWNER/APPLICANT: Salem Rassoul and Pamela Schmidt

No discussion as application was withdrawn.

**CONTINUED OTHER BUSINESS** – None

**NEW OTHER BUSINESS**

6. **Report from Director of Community Development** – Assistant Community Development Director Randy Tsuda provided an update on Bud Lortz' condition after a recent motorcycle accident.

7. **Commission Matters**  
**Commissioners Kane, Quintana and Talesfore** – Asked that when planning staff changes, new planners should be introduced to the Planning Commission. Mr. Tsuda provided introductions of new Assistant Planners Guido Persicone and Elizabeth Pettis who were hired to fill the positions vacated by Rachel Peled and Judie Gilli.

**ADJOURNMENT 8:00 P.M.**

TOWN OF LOS GATOS PLANNING COMMISSION  
October 11, 2006

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Phil Micciche, Chair

Approved as to Form and Attest

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Randy Tsuda,  
Assistant Community Development Director